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Attorneys for Defendant
MICHAEL LYNCH

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

IN RE HP SECURITIES LITIGATION
This Document Relates To: All Actions

CASE NO. C-12-5980 CRB

**DEFENDANT MICHAEL LYNCH'S
AMENDED NOTICE OF MOTION TO
DISMISS THE CONSOLIDATED
COMPLAINT**

NEW Date: November 8, 2013
Time: 10:00 a.m.
Dept: 6
Judge: Hon. Charles R. Breyer

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

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3 **PLEASE TAKE NOTICE THAT** on November 8, 2013, at 10:00 a.m. before the
 4 Honorable Charles Breyer, at 450 Golden Gate Avenue, Courtroom 6, San Francisco, California,
 5 Defendant Michael Lynch will and hereby does move pursuant to Federal Rule of Civil
 6 Procedure Rule 12(b)(6) to dismiss the Consolidated Complaint for Violation of the Federal
 7 Securities Laws, filed May 3, 2013 (“Complaint” or “CC”). Dr. Lynch bases his motion to
 8 dismiss Plaintiffs’ claim under Section 10(b) of the Securities Exchange Act of 1934 (the
 9 “Exchange Act”) and Securities and Exchange Commission Rule 10b-5 on the grounds that it
 10 fails to meet the stringent standards prescribed by Federal Rule of Civil Procedure 9(b), the
 11 Private Securities Litigation Reform Act of 1995 (“PSLRA”) and recent Supreme Court
 12 jurisprudence because Plaintiffs fail to allege (i) that Dr. Lynch made any false or misleading
 13 statement; (ii) that Plaintiffs relied on any statement or conduct of Dr. Lynch; or (iii) that Dr.
 14 Lynch possessed the requisite state of mind. Dr. Lynch bases his motion to dismiss Plaintiffs’
 15 claim under Section 20(a) of the Exchange Act on the grounds that (i) Plaintiffs fail to state a
 16 claim for a primary violation of the Exchange Act; and (ii) Plaintiffs fail to allege facts sufficient
 17 to show that Dr. Lynch exercised actual power or control over any primary violator.

18 This motion is based upon this Notice of Motion, the attached Memorandum of Points
 19 and Authorities, the pleadings, files and records in this case and such further evidence and oral
 20 argument as may be presented by Defendant Michael Lynch prior to or at the hearing on the
 21 motion.

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 23 DATED: July 3, 2013

24 STEPTOE & JOHNSON LLP

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 27 By: //s/ Jennifer B. Bonneville
 28 Jennifer B. Bonneville
 Attorneys for Defendant Michael Lynch